IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Revision No. 3448 OF 2005
Date of decision: 15.09.2006

Pawandeep Singh Sekhon

..... Petitioner.

Versus

Harminder Pal Kaur

..... Respondent

CORAM: HON'BLE MR. JUSTICE P.S. PATWALIA

Present:- Mr. S.K. Singla, Advocate
for the petitioner.

Mr. Gurcharan Dass, Advocate
for respondent.

P.S. PATWALIA, J. (ORAL)

By an order dated 08.07.2005 the petitioner-husband was directed to be present in the court personally and the wife either personally or through her representative on 06.09.2005. On that date, while the petitioner-husband was present but neither the respondent-wife nor her representative was present. It was accordingly ordered that she should be present in the court on the next date of hearing which was 04.10.2005. On that date also, neither the respondent-wife nor her representative was present. The case was adjourned for today and again it was ordered that respondent-wife or her representative should be present. However even today while the husband is present neither the wife or her representative is present.

Learned counsel for the respondent-wife states that he had duly informed the representative of respondent because respondent is residing in Canada however no one has come present.

I have heard counsel for the parties and have gone through the paper book.

The petition has been filed by the petitioner- husband against an order passed under Section 24 of the Hindu Marriage Act, vide which the petitioner has been directed to pay maintenance of Rs.2000/- per month to the respondent-wife and also to pay Rs.5000/- as litigation expenses. This order has been made on the following reasoning:-

> "The applicant has pleaded that respondent has sound financial position and having sufficient income. She has filed her affidavit in support of her pleadings. On the other hand, the respondent has denied contents of the application but has not filed any affidavit in support of his pleadings, the applicant Harminder Pal Kaur has also filed her counter affidavit to rebut the contents of reply of the respondent. So he has impliedly admitted the contents of application as well as affidavit of applicant dated 18.8.2004. It is well settled law that a husband is under legal obligations to maintain his wife. So in the interest of justice respondent Pawandeep Singh Sekhon is directed to pay Rs.2000/- per month to applicant Harminder Pal Kaur Grewal as maintenance pendentelite from the date of application i.e. 18.8.2004. He is also directed to pay Rs.5000/- to applicant as litigation expenses. Hence, the application

under Section 24 of Hindu Marriage Act stands disposed of accordingly."

Learned counsel for the petitioner- husband submits that the learned Additional District Judge has not considered the various pleas raised by him. He states that he had contended that the respondent- wife is residing in Canada. According to him, she is employed with a company for a packing job and she is also running a General Store. He states that she is earning more than 200 Canadian dollars per day. He also states that even at the time of marriage, she undertook to sponsor the petitioner – husband to go abroad i.e. to Canada, and, therefore, this fact alone is sufficient to come to the conclusion that she is having good financial capability and would be able to maintain the person at the time of his entry in the country for a reasonable period of time. He accordingly, moved an application praying that the respondent - wife should be directed to produce before the court her social security number and Income Tax Returns in these proceedings so as to ascertain her actual income. The said application has been placed on the record as Annexure P-5 . Reply to the application has also been placed on record. A perusal of the reply would show that the respondent has taken a plea that she cannot be asked to furnish her income tax returns for the last five years as income prior to filing her application under Section 24 of the Hindu Marriage Act cannot be taken into consideration in these proceedings. She further states that the social security number allotted to her is a confidential number and cannot be disclosed to anyone. Thus, according to the reply she is not desirous of producing either her income tax return or her social security number.

Counsel for the petitioner states that he had pleaded before the court that he is employed in a private concern and is not capable of paying Rs.2000/- per month. However, his contention has not been noticed by the learned Additional District Judge.

On the other hand, learned counsel for the respondent states that the order passed by the leaned Additional District Judge, Ludhiana needs to be maintained as now a days Rs.2000/- per month is a paltry amount which was the minimum which could have been ordered to be paid as interim maintenance.

After hearing counsel for the parties, I am of the opinion that the order passed by the learned Additional District Judge, Ludhiana, does not notice the various contentions raised by the counsel for the petitioner. Therefore, the same deserves to be set aside. The matter is remanded back to the learned Additional District Judge, Ludhaina to re-decide the application by taking into account the various contentions raised by the petitioner as aforementioned. The parties would appear before the learned Additional District Judge, Ludhiana on the date fixed in the main petition under Section 13 of the Hindu Marriage Act.

September 15, 2006 **(P.S. PATWALIA)**
dinesh **JUDGE**